

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

SUBCOMMITTEE ON STATE ADMINISTRATION

Call to Order: By **SEN. KELLY GEBHARDT**, on March 17, 2003 at 8:30 A.M., in Room 471 Capitol.

ROLL CALL

Members Present:

Sen. Kelly Gebhardt, Chairman (R)
Sen. Mike Wheat (D)
Rep. Sylvia Bookout-Reinicke (R)
Jim Greene, Disaster and Emergency Services (DES)
Russ Ritter, Montana Rail Link (MRL)
John Grewell, MRL
Pat Keim, BNSF
Spook Stang, Montana Motor Carriers' Association (MMCA)
Drew Livesay, Department of Transportation (DOT)
Martin Jacobson (PSC)

Members Excused: None.

Members Absent: None.

Staff Present: Pat Murdo, Legislative Branch
Mona Spaulding, Committee Secretary
Rebecca Sattler, Transcription of Minutes

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: Discuss HB 218
Executive Action: None

HB 218 Subcommittee Meeting

CHAIRMAN GEBHARDT explained that the hearing is to address the concerns of the railroad and the other agencies. He handed out the amendments for the Committee to discuss.

EXHIBIT (sts56c01)

Pat Keim, BNSF, stated that he had worked with **REP. BOOKOUT-REINICKE** to craft the bill. He added that they are working under the Coverage of the Interstate clause of the Constitution. It sets limitations as to carriers on the interstates. He said that some of the changes to the bill go against those regulations and DOE regulations. He said that the clause states that a tax or fee cannot be placed on a shipment that would prohibit movement. He explained that if placed in the bill, it will be thrown out in court.

He suggested that the best way to handle the situation is to hold the shipper or owner of the goods responsible for the tax. Most of the state laws charge the assessment fee in that manner. He continued explaining the problems with the changes and his suggestions regarding the bill. He suggested that the Committee revert back to the bill in its original form to work with.

CHAIRMAN GEBHARDT had a question regarding the responsible party. **Pat Keim** responded that the DOE is responsible, and provides the escort, the casks, and the security. He explained that was the reason for requesting the language change from "shippers" to "escorts."

{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.4}

SEN. WHEAT stated that he wants to appease all involved parties. He wants a record of this meeting to show that at least the Committee deliberated on the bill and tried to do a good job.

REP. BOOKOUT-REINICKE suggested that they go back to the original bill without amendments, but **SEN. WHEAT** wanted work with the amendments and alter them where necessary.

Spook Stang and **Pat Keim** addressed the fee process being on the transporter, shipper or the owner. They also don't want to interfere with interstate commerce and are opposed to local government routing schedule permits. **Spook Stang** said he wants the DOT to make a consistent determination.

{Tape: 1; Side: A; Approx. Time Counter: 7.4 - 17.2}

John Grewell, MRL, said that the bill in the present form places a lot of responsibility on the railroads for inspecting, etc. The federal government will not allow the railroad personnel to do that. **CHAIRMAN GEBHARDT** agreed.

Russ Ritter, MRL, added that the Department of Homeland Security Act will ensure that any radioactive material movement will be taken care of by the federal government.

{Tape: 1; Side: A; Approx. Time Counter: 17.2 - 22.4}

Pat Keim said that he received a call from the State Commerce attorney, who said that the indemnity division on Page 4, Lines 6-11 is already covered in federal law and is not necessary.

SEN. WHEAT requested a copy of that law from the attorney.

Pat Murdo added that the Price-Anderson Act has not been renewed.

Pat Keim said they looked into that specifically, and he stated that it has been renewed.

REP. BOOKOUT-REINICKE said that the Committee has to take \$25 million out for the truckers and the railroad. **CHAIRMAN GEBHARDT** added that, if a severability clause is added, it would cover the bill.

SEN. WHEAT suggested that each agency to write up a memo on each section of the bill and amendment what they do not agree with.

REP. BOOKOUT-REINICKE asked Pat Murdo to take the notes and put them together.

SEN. WHEAT explained that his concern is for the public health and safety. **Russ Ritter** asked if **SEN. WHEAT** feels that the federal government already provides that. **SEN. WHEAT** expressed his confusion over the varying degrees of responsibility.

Pat Keim clarified that some of the material is owned by private companies, but this act will become the property of the Department of Energy, who then becomes the responsible party for the material. **Russ Ritter** added that it is specifically addressed in the Homeland Security Act.

Pat Murdo had a question regarding the assumption of ownership. She said the ownership needs to fall under the DOE also. She also asked about the Motor Carrier's Act regarding the \$5 million liability coverage for truckers carrying the hazardous material.

{Tape: 1; Side: A; Approx. Time Counter: 22 - 30}

Pat Keim stated that the act covers the liability insurance. The company has liability coverage up to a certain point as well.

CHAIRMAN GEBHARDT asked if the small waste trucks from the hospitals, etc. have to abide by the same rules.

Jim Greene stated that there are many facilities with low-level waste; this bill is not intended for them. **Pat Keim** gave an example.

Pat Murdo asked why railroad crews couldn't be trained to handle specific shipments. **Pat Keim** explained that crews are called on a first-in, first-out basis. This bill would require that all those crews be trained, just in case they were called to get that shipment; the odds of having that rotation would be about 1:100,000.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.3}

Pat Keim stated that there is material on the trains to handle any other emergency, but the federal government doesn't disclose what is in those cars carrying the waste. **SEN. WHEAT** clarified that the intent was to have someone trained going with that shipment, not that everyone riding would require training.

Jim Greene said that a paper he gave to the Chairman specifically lays out the security that accompanies the federal shipments for the Department of Energy.

CHAIRMAN GEBHARDT discussed a future meeting time with the Committee. He suggested that they meet again next week.

{Tape: 1; Side: B; Approx. Time Counter: 4.3 - 9.2}

SEN. WHEAT expressed concern over the effective date of 2010. He said there are three more sessions before then to work out the bill, if needed. **REP. BOOKOUT-REINICKE** added that this is a basic bill to allow PSC to come up with the rules, leaving plenty of time to make changes.

CHAIRMAN GEBHARDT referred to the requirement to report to the legislature, and the opportunity to make changes. **Spook Stang** said that the amendments will achieve the objectives, with the exception of Section 6. He also suggested a few other minor changes.

{Tape: 1; Side: B; Approx. Time Counter: 9.2 - 12.3}

CHAIRMAN GEBHARDT said that he likes the bonding authority tied to another regulation; that way, the legislature won't have to

come back and change the amount every time. **Spook Stang** asked about Section 6 and notification regarding the County Commissioners. **Pat Murdo** said that notification is very difficult, but that could be negotiable.

Jim Greene discussed the plans for routes and shipments. He said that the risk increases with the number of people who know about the shipment. He said the nuclear regulatory commission requires that their office and the highway patrol be notified.

CHAIRMAN GEBHARDT asked about the possibility of the PSC being responsible for notifying the authorities involved. He stated that it would be fine to leave the County Commissioner out of that loop.

REP. BOOKOUT-REINICKE added that the highway patrolmen will receive training to conduct the inspections.

{Tape: 1; Side: B; Approx. Time Counter: 12.3 - 17.8}

Pat Keim commented regarding Section 6, Line 26 and the need to define "corridor." **Jim Greene** suggested a way to get around that is to adopt the other amendments, and vote on Section 6 separately.

Jim Greene said that the intent of the bill is to start the planning process. Even though the Nevada storage site is not built, they could get shipments going through soon. He said that this is a fairly low-risk, but potentially high-consequence issue. He added that the more flexible the bill is kept, the better. **CHAIRMAN GEBHARDT** agreed.

{Tape: 1; Side: B; Approx. Time Counter: 17.8 - 20.8}

Jim Greene discussed the inspections by the federal government. **Martin Jacobson, PSC**, stated that they would recommend that this statute be made as public-safety conscious as possible. He said other than that, they agree with the program.

Jim Greene had a concern regarding the conflict between state laws and federal laws. **CHAIRMAN GEBHARDT** added that is the purpose for the Committee to review the bill and not rush through the bill.

Pat Murdo said that she will compile the suggestions in the form of a gray bill to be looked over by the Committee. The Committee agreed to meet later to further work out the details.

{Tape: 1; Side: B; Approx. Time Counter: 20.8 - 26.7}

ADJOURNMENT

Adjournment: 9:25 A.M.

SEN. KELLY GEBHARDT, Chairman

REBECCA SATTLER, Transcriptionist

KG/RS

EXHIBIT (sts56cad)